

AMENDED IN SENATE APRIL 13, 2000

AMENDED IN SENATE APRIL 10, 2000

AMENDED IN SENATE MARCH 29, 2000

**SENATE BILL**

**No. 1988**

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**Introduced by Senator Speier**

February 25, 2000

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An act to amend Sections 650, 2273, 6086.10, 6106.5, and 6153 of, to add Sections 1003, 1004, 2220.6, 2417, and 6106.6 to, and to add and repeal Article 10 (commencing with Section 9889.25) of Chapter 20.3 of Division 3 of, the Business and Professions Code, to add Section 26510 to the Government Code, to amend Sections 750, *1872.1*, and 1872.7 of, to add Sections 758, ~~1874.7~~, and ~~11580.012~~ *and 1874.7* to, and to add Article 4.5 (commencing with Section 1874.85) and Article 4.6 (commencing with Section 1874.90) to Chapter 12 of Part 2 of Division 1 of, the Insurance Code, to amend Sections 549 and 550 of the Penal Code, and to add Sections 4000.5, ~~10903~~, 10904, and 13201.1 to the Vehicle Code, relating to insurance fraud, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1988, as amended, Speier. Insurance fraud.

(1) The Automotive Repair Act provides for the licensing and regulation of automotive repair dealers, including auto body repair shops, by the Bureau of Automotive Repair in the Department of Consumer Affairs.

This bill would require the bureau to undertake a pilot program under which the bureau would inspect insured

vehicles that have undergone auto body repair for the purpose of identifying work that has not been done according to specifications in the final invoice. This bill would require the pilot program to be completed by December 31, 2002, and would require a report to the Legislature by February 1, 2003. This bill would appropriate \$200,000 from the General Fund to the department for allocation to the bureau for the purposes of the pilot program.

(2) The Medical Practice Act, the Chiropractic Act, and the State Bar Act provide for the licensing and regulation of physicians, chiropractors, and attorneys, respectively. Under these and other related insurance fraud provisions, certain activities involving the engaging of runners, cappers, steerers, or other persons to procure patients or clients are a crime, and with respect to physicians and attorneys, are grounds for disciplinary action.

This bill would increase the penalties for these violations, thereby imposing a state-mandated local program. This bill would require a person licensed under the Medical Practice and Chiropractic Acts who is convicted of insurance fraud to have his or her license to practice the profession permanently revoked. This bill would state the intent of the Legislature for the State Bar to view insurance fraud as an offense involving moral turpitude and as grounds for revocation of an attorney's State Bar membership. This bill would require the applicable licensing boards to initiate disciplinary action against their licensees without waiting for the outcome of a criminal proceeding when they have information concerning a licensee that is sufficient to commence a disciplinary proceeding. This bill would also require a business organization that holds itself out to the public as an organization practicing medicine, or that a reasonably informed person would believe is engaged in the practice of medicine, to be owned and operated only by physicians, with certain exceptions, as specified. This bill would also require a district attorney to notify the State Board of Chiropractic Examiners whenever a chiropractor is convicted of an offense that subjects the licensee to license suspension or revocation.

(3) Existing law provides for licensing and regulation of insurers by the Insurance Commissioner. Existing law



provides for funding of various activities relating to insurance fraud through assessments on insurers, including an assessment of \$1,000 annually per insurer to fund the costs of administration and operation of the Bureau of Fraudulent Claims in the Department of Insurance.

This bill would increase that assessment to \$1,300. This bill would require an insurer that pays a claim under an automobile insurance policy for medical or chiropractic services to require the claimant to certify as to the nature of the service received and the date that the service was rendered, and would require these insurers to inspect a portion of the vehicles for which claims are approved for auto body repairs to determine whether the work paid for was appropriately done, as specified. This bill would require an insurer issuing auto policies to provide each insured with an Auto Body Repair Consumer Bill of Rights developed by the department containing specified elements, ~~and would require an auto insurance policy to clearly indicate whether or not it covers the cost of a replacement vehicle in case of an accident involving the insured vehicle.~~ This bill would authorize the Insurance Commissioner to declare a region of the state as an auto insurance fraud crisis area, thereby providing for various steps to be taken by the commissioner and insurers with regard to the payment of auto insurance claims. This bill would also provide for a doubling of fines applicable to certain insurance fraud offenses committed in an auto insurance fraud crisis area.

(4) Existing law requires the registration by the Department of Motor Vehicles of vehicles operated on public streets and highways. Existing law provides for the licensing of drivers by the department, and the suspension or revocation of a driver's license by the department or a court for various reasons.

This bill would require the department to include a list of the top 10 vehicles stolen in California and other information about vehicle theft prevention with the annual registration renewal notice mailed to each vehicle owner. ~~This bill would also require the Commissioner of the Department of the California Highway Patrol to chair a task force of various agencies to identify opportunities to coordinate resources in~~



~~an effort to further reduce the incidence of automobile insurance fraud and automobile theft.~~ This bill would require a court to suspend for one year the driver's license of any person convicted of auto insurance fraud.

(5) This bill would enact other related provisions. This bill would state the intent of the Legislature with respect to this act, which would be known as the Anti-Auto Theft and Insurance Fraud Act of 2000.

(6) This bill would require the provisions relating to the powers and duties of the State Board of Chiropractic Examiners, which was created by an initiative statute, to be submitted to the voters for approval consistent with that initiative statute.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares that  
2 auto theft, auto body repair fraud and other forms of auto  
3 insurance fraud, including staged accidents, cause great  
4 economic harm and personal suffering to the people of  
5 California. The cost of this theft and fraud has been  
6 estimated to be at least \$1 billion annually and may be in  
7 excess of \$9 billion annually. According to the Bureau of  
8 Automotive Repair, 39 percent of the work it inspects  
9 involves fraud, and according to the California Highway  
10 Patrol, insurance fraud and auto theft are linked to  
11 organized crime. Accordingly, the Legislature has  
12 determined that it is necessary to increase efforts by state  
13 agencies to combat this type of fraud and to require  
14 insurers to strengthen their antifraud efforts.

15 SEC. 2. This act shall be known and may be cited as  
16 the Anti-Auto Theft and Insurance Fraud Act of 2000.

SEC. 3. Section 650 of the Business and Professions Code is amended to read:

650. Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code, the offer, delivery, receipt, or acceptance by any person licensed under this division of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership, proprietary interest or coownership in or with any person to whom these patients, clients or customers are referred is unlawful.

The payment or receipt of consideration for services other than the referral of patients which is based on a percentage of gross revenue or similar type of contractual arrangement shall not be unlawful if the consideration is commensurate with the value of the services furnished or with the fair rental value of any premises or equipment leased or provided by the recipient to the payor.

Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2, it shall not be unlawful for any person licensed under this division to refer a person to any laboratory, pharmacy, clinic (including entities exempt from licensure pursuant to Section 1206 of the Health and Safety Code), or health care facility solely because the licensee has a proprietary interest or coownership in the laboratory, pharmacy, clinic, or health care facility; provided, however, that the licensee's return on investment for that proprietary interest or coownership shall be based upon the amount of the capital investment or proportional ownership of the licensee which ownership interest is not based on the number or value of any patients referred. Any referral excepted under this section shall be unlawful if the prosecutor proves that there was no valid medical need for the referral.

"Health care facility" means a general acute care hospital, acute psychiatric hospital, skilled nursing

1 facility, intermediate care facility, and any other health  
2 facility licensed by the State Department of Health  
3 Services under Chapter 2 (commencing with Section  
4 1250) of Division 2 of the Health and Safety Code.

5 A violation of this section is a public offense and is  
6 punishable by imprisonment in the state prison for two,  
7 three, or five years.

8 SEC. 4. Section 1003 is added to the Business and  
9 Professions Code, to read:

10 1003. (a) Except as otherwise allowed by law, the  
11 employment of runners, cappers, steerers, or other  
12 persons to procure patients constitutes unprofessional  
13 conduct.

14 (b) A licensee of the State Board of Chiropractic  
15 Examiners who is convicted of insurance fraud pursuant  
16 to Section 650 *of this code*, Section 750, ~~1871.1~~, or 1871.4  
17 of the Insurance Code, or Section 549 *or* 550 of the Penal  
18 Code shall have his or her license to practice permanently  
19 revoked.

20 SEC. 5. Section 1004 is added to the Business and  
21 Professions Code, to read:

22 1004. The State Board of Chiropractic Examiners shall  
23 initiate disciplinary action against a licensee without  
24 waiting for the outcome of a criminal proceeding when  
25 the board has information concerning the licensee that is  
26 sufficient to commence a disciplinary proceeding.

27 SEC. 6. Section 2220.6 is added to the Business and  
28 Professions Code, to read:

29 2220.6. The board shall initiate disciplinary action  
30 against a licensee without waiting for the outcome of a  
31 criminal proceeding when the board has information  
32 concerning the licensee that is sufficient to commence a  
33 disciplinary proceeding under this chapter.

34 SEC. 7. Section 2273 of the Business and Professions  
35 Code is amended to read:

36 2273. (a) Except as otherwise allowed by law, the  
37 employment of runners, cappers, steerers, or other  
38 persons to procure patients constitutes unprofessional  
39 conduct.

1 (b) A licensee who is convicted of insurance fraud  
2 pursuant to Section 650 *of this code*, Section 750, ~~1871.1,~~  
3 or 1871.4 of the Insurance Code, or Section 549 *or 550* of  
4 the Penal Code shall have his or her license to practice  
5 permanently revoked.

6 SEC. 8. Section 2417 is added to the Business and  
7 Professions Code, to read:

8 2417. (a) Any type of business organization that  
9 holds itself out to the public as an organization practicing  
10 medicine, or that a reasonably informed person would  
11 believe is engaged in the practice of medicine, shall be  
12 owned and operated only by one or more licensed  
13 physicians and surgeons. This section does not apply to  
14 hospitals, or private, nonprofit medical clinics licensed  
15 pursuant to Chapter 1 (commencing with Section 1200)  
16 of Division 2 of the Health and Safety Code. The Director  
17 of the State Department of Health Services may exempt  
18 other business organizations from the requirements of  
19 this section, upon application to the director and upon  
20 submission of evidence that it is in the public interest to  
21 provide that exemption, as determined by the director.

22 (b) A physician and surgeon who knowingly practices  
23 medicine with a business organization not owned or  
24 operated in compliance with subdivision (a) shall have  
25 his or her license to practice permanently revoked.

26 SEC. 9. Section 6086.10 of the Business and  
27 Professions Code is amended to read:

28 6086.10. (a) Any order imposing a public reproof on  
29 a member of the State Bar shall include a direction that  
30 the member shall pay costs. In any order imposing  
31 discipline, or accepting a resignation with a disciplinary  
32 matter pending, the State Bar Court shall include a  
33 direction that the member shall pay costs.

34 (b) The costs required to be imposed pursuant to this  
35 section include all of the following:

36 (1) The actual expense incurred by the State Bar for  
37 the original and copies of any reporter's transcript of the  
38 State Bar proceedings, and any fee paid for the services  
39 of the reporter.

1 (2) All expenses paid by the State Bar which would  
2 qualify as taxable costs recoverable in civil proceedings.

3 (3) The charges determined by the State Bar to be  
4 “reasonable costs” of investigation, hearing, and review.  
5 These amounts shall serve to defray the costs, other than  
6 fees for the services of attorneys or experts, of the State  
7 Bar in the preparation or hearing of disciplinary  
8 proceedings, and costs incurred in the administrative  
9 processing of the disciplinary proceeding and in the  
10 administration of the client security fund.

11 (c) A member may be granted relief, in whole or in  
12 part, from an order assessing costs under this section, or  
13 may be granted an extension of time to pay these costs,  
14 in the discretion of the State Bar, upon grounds of  
15 hardship, special circumstances, or other good cause.

16 (d) In the event an attorney is exonerated of all  
17 charges following a formal hearing, he or she is entitled  
18 to reimbursement from the State Bar in an amount  
19 determined by the State Bar to be the reasonable  
20 expenses, other than fees for attorneys or experts, of  
21 preparation for the hearing.

22 SEC. 10. Section 6106.5 of the Business and  
23 Professions Code is amended to read:

24 6106.5. It is the intent of the Legislature that the State  
25 Bar view insurance fraud as an offense involving moral  
26 turpitude that causes economic and personal injury to  
27 large numbers of Californians, and that insurance fraud  
28 should be grounds for revocation of State Bar  
29 membership.

30 SEC. 11. Section 6106.6 is added to the Business and  
31 Professions Code, to read:

32 6106.6. Disciplinary action against an attorney shall be  
33 commenced without waiting for the outcome of a  
34 criminal proceeding when there are sufficient grounds  
35 concerning the conduct of an attorney to justify  
36 commencement of a disciplinary proceeding under this  
37 chapter.

38 SEC. 12. Section 6153 of the Business and Professions  
39 Code is amended to read:

1 6153. Any person, firm, partnership, association, or  
2 corporation violating subdivision (a) of Section 6152 is  
3 punishable by imprisonment in the state prison for two,  
4 three, or five years.

5 Any person employed either as an officer, director,  
6 trustee, clerk, servant or agent of this state or of any  
7 county or other municipal corporation or subdivision  
8 thereof, who is found guilty of violating any of the  
9 provisions of this article, shall forfeit the right to his office  
10 and employment in addition to any other penalty  
11 provided in this article.

12 SEC. 13. Article 10 (commencing with Section  
13 9889.25) is added to Chapter 20.3 of Division 3 of the  
14 Business and Professions Code, to read:

15  
16 Article 10. Auto Body Repair Inspection Pilot  
17 Program:-  
18

19 9889.25. The bureau shall implement a pilot program  
20 known as the Auto Body Repair Inspection Pilot Program,  
21 pursuant to which the bureau shall inspect insured  
22 vehicles that have been subject to auto body repairs for  
23 the purpose of identifying work that has not been done  
24 according to specifications in the final invoice. The pilot  
25 program shall be conducted between January 1, 2001, and  
26 December 31, 2002.

27 9889.26. Under the pilot program, the bureau may  
28 accept requests from the registered owner of an insured  
29 vehicle for the bureau to inspect a vehicle that has been  
30 subject to auto body repairs. Requests may be submitted  
31 by mail, by a toll-free telephone number, and via the  
32 Internet. The bureau shall, to the extent possible, accept  
33 requests in a manner to enable all areas of California to  
34 participate in the pilot program.

35 9889.27. The bureau shall select a vehicle for  
36 participation in the pilot program based on the vehicle  
37 meeting each of the following criteria:

38 (a) The auto body repairs to the vehicle were  
39 completed within 120 days of the request to participate  
40 in the pilot program.

1 (b) The repair bill was in excess of two thousand five  
2 hundred dollars (\$2,500).

3 (c) The owner of the vehicle is willing to provide  
4 access to the vehicle.

5 (d) Bureau personnel and resources to conduct an  
6 inspection are available.

7 9889.28. (a) An insurer, upon request by the bureau,  
8 shall provide to the bureau documents and other  
9 necessary information related to an inspection to be  
10 performed under this article, pursuant to Sections 1874.1  
11 and 1874.2 of the Insurance Code. The information  
12 provided in this regard shall be subject to Section 1872.5  
13 of the Insurance Code.

14 (b) If, as the result of an inspection, any civil, criminal,  
15 or administrative action is taken against an auto body  
16 repair shop, the order or judgment shall include a  
17 requirement for restitution to the insurer that paid the  
18 claim.

19 9889.29. Upon completion of an investigation, the  
20 bureau shall contact the applicable insurer *and the Fraud*  
21 *Division of the Department of Insurance or its successor*  
22 when it discovers discrepancies between the work  
23 performed and the work identified on the invoice  
24 pursuant to an inspection conducted under this article.  
25 The insurer, upon notification by the bureau, shall, within  
26 five business days, disclose to its insured information  
27 contained in the inspection notification from the bureau.

28 9889.30. The bureau shall report to the Legislature on  
29 the results of the pilot program on or before February 1,  
30 2003.

31 9889.31. This article shall become inoperative on  
32 January 1, 2004, and as of that date is repealed, unless a  
33 later enacted statute deletes or extends that date.

34 SEC. 14. Section 26510 is added to the Government  
35 Code, to read:

36 26510. The district attorney shall notify the State  
37 Board of Chiropractic Examiners of the conviction of any  
38 licensee of the board for an offense that may subject the  
39 licensee to license suspension or revocation.

1 SEC. 15. Section 750 of the Insurance Code is  
2 amended to read:

3 750. (a) Except as provided in Section 750.5, any  
4 person acting individually or through his or her  
5 employees or agents, who engages in the practice of  
6 processing, presenting, or negotiating claims, including  
7 claims under policies of insurance, and who offers,  
8 delivers, receives, or accepts any rebate, refund,  
9 commission, or other consideration, whether in the form  
10 of money or otherwise, as compensation or inducement  
11 to or from any person for the referral or procurement of  
12 clients, cases, patients, or customers, is guilty of a crime.

13 (b) A violation of subdivision (a) is punishable by  
14 imprisonment in the state prison for two, three, or five  
15 years.

16 (c) Nothing in this section shall prohibit a licensed  
17 collection or lien agency from receiving a commission on  
18 the collection of delinquent debts nor prohibits the  
19 agency from paying its employees a commission for  
20 obtaining clients seeking collection on delinquent debts.

21 (d) Nothing in this section is intended to limit, restrict,  
22 or in any way apply to, the rebating of commissions by  
23 insurance agents or brokers, as authorized by Proposition  
24 103, enacted by the people at the November 8, 1988,  
25 general election.

26 SEC. 16. Section 758 is added to the Insurance Code,  
27 to read:

28 758. (a) It is unlawful for an insurer to require an  
29 auto body repair shop registered pursuant to Sections  
30 9884 and 9889.52 of the Business and Professions Code, as  
31 a condition of participation in the insurer's direct repair  
32 program, to pay for the cost of an insured's rental vehicle  
33 that is replacing an insured vehicle damaged in an  
34 accident, or to pay for the towing charges of the insured  
35 with respect to that accident. However, the insurer and  
36 the auto body repair shop may agree in writing to terms  
37 and conditions under which the rental vehicle charges  
38 become the responsibility of the auto body repair shop  
39 when the shop fails to complete work within the  
40 agreed-upon time for repair of the damaged vehicle.

1 (b) A registered auto body repair shop that is denied  
2 participation in an insurer's direct repair program may  
3 request the reason for the denial in writing. The insurer,  
4 upon receipt of the request, shall provide a written  
5 response within 60 calendar days.

6 (c) *Any insurer that conducts an auto body repair*  
7 *labor rate survey to determine and set a specified*  
8 *prevailing auto body rate in a specific geographic area*  
9 *shall report the results of that survey to the department,*  
10 *which shall make the information available upon request.*  
11 *The survey information shall include the names and*  
12 *addresses of the auto body repair shops and the total*  
13 *number of shops surveyed. Labor rate surveys shall*  
14 *require the insurer to use the auto body repair shop's*  
15 *posted labor rate.*

16 SEC. 17. *Section 1872.1 of the Insurance Code is*  
17 *amended to read:*

18 1872.1. (a) There is created within the Bureau of  
19 Fraudulent Claims an advisory committee on automobile  
20 insurance fraud and economic automobile theft  
21 prevention, investigation, and prosecution, as provided in  
22 this chapter. The committee shall be composed of the  
23 Chief of the Bureau of Fraudulent Claims, a  
24 representative from the Department of Justice, the  
25 Department of Motor Vehicles, the Division of  
26 Investigation of the Department of Consumer Affairs, the  
27 Department of the California Highway Patrol, the  
28 Bureau of Automotive Repair, *the Parole and*  
29 *Community Services Division of the Department of*  
30 *Corrections*, the State Bar of California, the Medical  
31 Board of California, two representatives from local law  
32 enforcement agencies, one of whom shall be a prosecutor,  
33 and representatives of three insurers assessed pursuant to  
34 Section 1872.8.

35 (b) The commissioner shall select representatives  
36 from local law enforcement agencies from names  
37 submitted from local law enforcement agencies. The  
38 commissioner shall select one insurer representative  
39 from each of the following three categories from  
40 nominees submitted by insurers in each category: one

1 representative of insurers with average annual  
2 automobile liability premiums in California of less than  
3 one hundred million dollars (\$100,000,000) in the  
4 preceding three years; one representative of insurers  
5 with average annual automobile liability premiums in  
6 California between one hundred million dollars  
7 (\$100,000,000) and seven hundred million dollars  
8 (\$700,000,000) in the preceding three years; and one  
9 representative of insurers with average annual  
10 automobile liability premiums in California exceeding  
11 seven hundred million dollars (\$700,000,000) in the  
12 preceding three years. At least one insurer representative  
13 shall be employed by an insurer having its principal  
14 headquarters in California. Members appointed by the  
15 commissioner shall serve at the pleasure of the  
16 commissioner. Representatives from other agencies shall  
17 be selected by the agencies represented.

18 (c) The advisory committee shall elect one of its  
19 members annually to chair its meetings. The chair shall  
20 conduct quarterly meetings of the committee in  
21 California and at such other times as he or she deems  
22 appropriate. Members of the committee shall serve  
23 without compensation except for expenses incidental to  
24 attendance at meetings called by the chair. A report of  
25 the committee's activities shall be included in the report  
26 required under Section 1872.9.

27 (d) The purpose and goals of the advisory committee  
28 are as follows:

29 (1) Recommend to the Bureau of Fraudulent Claims  
30 and other appropriate public agencies and private sector  
31 entities ways to coordinate the investigation, prosecution,  
32 and prevention of automobile insurance claims fraud,  
33 including economic automobile theft.

34 (2) Provide assistance to the bureau towards  
35 implementing the goal of reducing the frequency and  
36 severity of fraudulent automobile insurance claims  
37 (adjusted for population growth and inflation) of 20  
38 percent in urban areas and 10 percent in rural areas of the  
39 state within a 24-month period from the effective date of

1 this chapter by utilizing resources set forth in Section  
2 1872.8.

3 (3) Assure that preventive, investigative, prosecutive,  
4 and data collection efforts undertaken by the bureau  
5 pursuant to this chapter are efficient, cost-effective, and  
6 complement similar efforts undertaken by law  
7 enforcement agencies and insurers.

8 (4) Make recommendations for inclusion in the  
9 bureau's annual report required by Section 1872.9.

10 *SEC. 18.* Section 1872.7 of the Insurance Code is  
11 amended to read:

12 1872.7. The costs of administration and operation of  
13 the Bureau of Fraudulent Claims shall be borne by all of  
14 the insurers admitted to transact insurance in this state.  
15 The commissioner shall divide those costs among all of  
16 those insurers, assessing each company an identical  
17 amount adequate to provide the funds for each fiscal year  
18 of operation of the bureau. However, the assessment for  
19 each company shall not exceed one thousand three  
20 hundred dollars (\$1,300) in each fiscal year. All moneys  
21 received by the commissioner from insurers pursuant to  
22 this section shall be transmitted to the Treasurer to be  
23 deposited in the State Treasury to the credit of the  
24 Insurance Fund. All moneys that are deposited in the  
25 fund after receipt by the commissioner from insurers  
26 pursuant to this section are to be exclusively used for the  
27 support of the Bureau of Fraudulent Claims. To the  
28 extent the assessments against insurers made pursuant to  
29 this section are not sufficient to fund the entire operations  
30 of the bureau, other moneys appropriated to the  
31 department, if available, may be used, at the  
32 commissioner's discretion, to fund those operations not  
33 covered by the assessments. The total budget of the  
34 bureau shall be as determined annually in the Budget Act.

35 ~~SEC. 18.~~

36 *SEC. 19.* Section 1874.7 is added to the Insurance  
37 Code, to read:

38 1874.7. An insurer that pays a claim under an  
39 automobile insurance policy for medical or chiropractic  
40 services shall require the claimant to certify as to the

1 nature of the service received and the date that the  
2 service was rendered.

3 ~~SEC. 19.~~

4 SEC. 20. Article 4.5 (commencing with Section  
5 1874.85) is added to Chapter 12 of Part 2 of Division 1 of  
6 the Insurance Code, to read:

7  
8 Article 4.5. Insurer Inspections  
9

10 1874.85. (a) Except as provided in subdivision (b), an  
11 insurer that issues automobile liability or collision policies  
12 shall inspect a minimum of 25 percent of the vehicles for  
13 which it has approved a claim for the cost of auto body  
14 repairs, either during the repair process or after the work  
15 has been completed. The number of vehicles required to  
16 be inspected in a given calendar year shall be based on the  
17 number of vehicles for which the insurer approved  
18 payment of auto body repair claims in the preceding  
19 calendar year. As used in this article, “inspect” means a  
20 direct review of completed work in order to determine  
21 whether the work paid for was appropriately completed.

22 (b) An insurer may inspect fewer than the number of  
23 vehicles otherwise required to be inspected pursuant to  
24 subdivision (a) if the insurer provides an explanation in  
25 the annual report required pursuant to Section 1874.86 of  
26 how the volume of inspections conducted by the insurer  
27 satisfies the insurer’s objectives of reducing or  
28 eliminating auto body repair fraud.

29 1874.86. Each insurer subject to this article shall  
30 report annually to the department on the following:

31 (a) The number of vehicles inspected pursuant to  
32 Section 1874.85 and the percentage that this number  
33 represents of the total number of vehicles for which it  
34 paid a claim for the cost of auto body repairs in the prior  
35 calendar year.

36 (b) The results of the inspections, including the nature  
37 of any fraud uncovered, and whether or not legal action  
38 was pursued.

39 (c) The explanation required by subdivision (b) of  
40 Section 1874.85, if applicable.

1 The department shall make the information provided  
2 pursuant to this section available to the California  
3 Highway Patrol and the Bureau of Automotive Repair.

4 1874.87. (a) Each insurer subject to this article shall  
5 provide each insured with an Auto Body Repair  
6 Consumer Bill of Rights at the time of application for an  
7 automobile insurance policy. If the insurer provides the  
8 insured with an electronic copy of a policy, the bill of  
9 rights may also be transmitted electronically.

10 (b) The bill of rights shall be a standardized form  
11 developed by the department with the purpose of  
12 presenting easy-to-read facts for auto insurance  
13 consumers. The content of the bill of rights shall be  
14 determined by the department, and at a minimum, shall  
15 contain information about all of the following:

16 (1) A consumer's right to select an auto body repair  
17 shop for auto body damage covered by the insurance  
18 policy and that an insurer may not require this work to be  
19 done at a particular auto body repair shop.

20 (2) The consumer's right to be informed about auto  
21 body repairs made with new original equipment  
22 manufactured parts, new aftermarket parts, and used  
23 crash parts.

24 (3) Coverage for towing services, and for a  
25 replacement rental vehicle while a damaged vehicle is  
26 being repaired, or if there is no coverage, a clear  
27 statement to that effect.

28 (4) Toll-free telephone numbers and Internet  
29 addresses for reporting suspected fraud or other  
30 complaints and concerns about auto body repair shops to  
31 the Bureau of Automotive Repair.

32 (c) The department shall consult with the Bureau of  
33 Automotive Repair in determining the information to be  
34 contained in the bill of rights.

35 ~~SEC. 20.~~

36 *SEC. 21.* Article 4.6 (commencing with Section  
37 1874.90) is added to Chapter 12 of Part 2 of Division 1 of  
38 the Insurance Code, to read:

39

Article 4.6. Auto Insurance Fraud Crisis Areas

1874.90. The commissioner may declare any region of the state as an auto insurance fraud crisis area upon making a finding that auto insurance fraud is endemic to the area.

1874.91. In an auto insurance fraud crisis area, the commissioner may require that up to 100 percent of all claims shall be reported by the insurer to the department ~~or the National Insurance Crime Bureau to a licensed insurance claims analysis bureau in a format to be specified by the department~~ within five business days of the filing of the claim. If an attorney filed the claim, the name of the attorney shall also be reported.

1874.92. (a) An insurer shall report all claims made in an auto insurance fraud crisis area that are filed within 90 days of the issuance of an automobile insurance policy to the Bureau of Fraudulent Claims.

(b) The commissioner shall have the authority to adopt an alternative to the 90-day standard established in subdivision (a), and shall not be required, notwithstanding any other provision of law, to disclose the standard in effect at any given point in time. Any document directly relating to any action by the commissioner under this article shall be exempt from disclosure under Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

~~SEC. 21. Section 11580.012 is added to the Insurance Code, to read:~~

~~11580.012. Every automobile insurance policy that provides liability, collision, or comprehensive coverage, but that does not provide any coverage for the cost of a rental vehicle to temporarily replace a damaged vehicle of the insured that is being repaired after an accident, shall disclose that lack of coverage to the insured and shall require the insured to acknowledge the lack of coverage by initialing the disclosure document, unless the insured is provided an opportunity to accept or deny that coverage in the policy application.~~

1 SEC. 22. Section 549 of the Penal Code is amended to  
2 read:

3 549. Any firm, corporation, partnership, or  
4 association, or any person acting in his or her individual  
5 capacity, or in his or her capacity as a public or private  
6 employee, who solicits, accepts, or refers any business to  
7 or from any individual or entity with the knowledge that,  
8 or with reckless disregard for whether, the individual or  
9 entity for or from whom the solicitation or referral is  
10 made, or the individual or entity who is solicited or  
11 referred, intends to violate Section 550 of this code or  
12 Section 1871.4 of the Insurance Code is guilty of a crime,  
13 punishable by imprisonment in the state prison for two,  
14 three, or five years.

15 SEC. 23. Section 550 of the Penal Code is amended to  
16 read:

17 550. (a) It is unlawful to do any of the following, or to  
18 aid, abet, solicit, or conspire with any person to do any of  
19 the following:

20 (1) Knowingly present or cause to be presented any  
21 false or fraudulent claim for the payment of a loss or  
22 injury, including payment of a loss or injury under a  
23 contract of insurance.

24 (2) Knowingly present multiple claims for the same  
25 loss or injury, including presentation of multiple claims to  
26 more than one insurer, with an intent to defraud.

27 (3) Knowingly cause or participate in a vehicular  
28 collision, or any other vehicular accident, for the purpose  
29 of presenting any false or fraudulent claim.

30 (4) Knowingly present a false or fraudulent claim for  
31 the payments of a loss for theft, destruction, damage, or  
32 conversion of a motor vehicle, a motor vehicle part, or  
33 contents of a motor vehicle.

34 (5) Knowingly prepare, make, or subscribe any  
35 writing, with the intent to present or use it, or to allow it  
36 to be presented, in support of any false or fraudulent  
37 claim.

38 (6) Knowingly make or cause to be made any false or  
39 fraudulent claim for payment of a health care benefit.



1 (7) Knowingly submit a claim for a health care benefit  
2 that was not used by, or on behalf of, the claimant.

3 (8) Knowingly present multiple claims for payment of  
4 the same health care benefit with an intent to defraud.

5 (9) Knowingly present for payment any undercharges  
6 for health care benefits on behalf of a specific claimant  
7 unless any known overcharges for health care benefits for  
8 that claimant are presented for reconciliation at that  
9 same time.

10 (10) For purposes of paragraphs (6) to (9), inclusive,  
11 a claim or a claim for payment of a health care benefit also  
12 means a claim or claim for payment submitted by or on  
13 the behalf of a provider of any workers' compensation  
14 health benefits under the Labor Code.

15 (b) It is unlawful to do, or to knowingly assist or  
16 conspire with any person to do, any of the following:

17 (1) Present or cause to be presented any written or  
18 oral statement as part of, or in support of or opposition to,  
19 a claim for payment or other benefit pursuant to an  
20 insurance policy, knowing that the statement contains  
21 any false or misleading information concerning any  
22 material fact.

23 (2) Prepare or make any written or oral statement that  
24 is intended to be presented to any insurer or any  
25 insurance claimant in connection with, or in support of or  
26 opposition to, any claim or payment or other benefit  
27 pursuant to an insurance policy, knowing that the  
28 statement contains any false or misleading information  
29 concerning any material fact.

30 (3) Conceal, or knowingly fail to disclose the  
31 occurrence of, an event that affects any person's initial or  
32 continued right or entitlement to any insurance benefit  
33 or payment, or the amount of any benefit or payment to  
34 which the person is entitled.

35 (4) Prepare or make any written or oral statement,  
36 intended to be presented to any insurer or producer for  
37 the purpose of obtaining a motor vehicle insurance  
38 policy, that the person to be the insured resides or is  
39 domiciled in this state when, in fact, that person resides  
40 or is domiciled in a state other than this state.

(c) (1) Every person who violates paragraph (1), (2), (3), (4), or (5) of subdivision (a) is guilty of a felony punishable by imprisonment in the state prison for two, three, or five years, and by a fine not exceeding fifty thousand dollars (\$50,000), unless the value of the fraud exceeds fifty thousand dollars (\$50,000), in which event the fine may not exceed double of the value of the fraud.

(2) Every person who violates paragraph (6), (7), (8), or (9) of subdivision (a) is guilty of a public offense.

(A) Where the claim or amount at issue exceeds four hundred dollars (\$400), the offense is punishable by imprisonment in the state prison for two, three, or five years, or by a fine not exceeding fifty thousand dollars (\$50,000), or by both that imprisonment and fine, unless the value of the fraud exceeds fifty thousand dollars (\$50,000), in which event the fine may not exceed double the value of the fraud, or by imprisonment in a county jail not to exceed one year, by a fine of not more than one thousand dollars (\$1,000), or by both that imprisonment and fine.

(B) Where the claim or amount at issue is four hundred dollars (\$400) or less, the offense is punishable by imprisonment in a county jail not to exceed six months, or by a fine of not more than one thousand dollars (\$1,000), or by both that imprisonment and fine, unless the aggregate amount of the claims or amount at issue exceeds four hundred dollars (\$400) in any 12-consecutive-month period, in which case the claims or amounts may be charged as in subparagraph (A).

(3) Every person who violates paragraph (1), (2), (3), or (4) of subdivision (b) shall be punished by imprisonment in the state prison for two, three, or five years.

(d) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of a sentence be suspended for, any adult person convicted of felony violations of this section who previously has been convicted of felony violations of this section or Section 548, or of Section 1871.4 of the Insurance Code, or former Section 556 of the Insurance

1 Code, or former Section 1871.1 of the Insurance Code as  
2 an adult under charges separately brought and tried two  
3 or more times. The existence of any fact that would make  
4 a person ineligible for probation under this subdivision  
5 shall be alleged in the information or indictment, and  
6 either admitted by the defendant in an open court, or  
7 found to be true by the jury trying the issue of guilt or by  
8 the court where guilt is established by plea of guilty or  
9 nolo contendere or by trial by the court sitting without a  
10 jury.

11 Except when the existence of the fact was not admitted  
12 or found to be true or the court finds that a prior felony  
13 conviction was invalid, the court shall not strike or dismiss  
14 any prior felony convictions alleged in the information or  
15 indictment.

16 This subdivision does not prohibit the adjournment of  
17 criminal proceedings pursuant to Division 3  
18 (commencing with Section 3000) or Division 6  
19 (commencing with Section 6000) of the Welfare and  
20 Institutions Code.

21 (e) Except as otherwise provided in subdivision (f),  
22 any person who violates subdivision (a) or (b) and who  
23 has a prior felony conviction of an offense set forth in  
24 either subdivision (a) or (b), in Section 548, in Section  
25 1871.4 of the Insurance Code, in former Section 556 of the  
26 Insurance Code, or in former Section 1871.1 of the  
27 Insurance Code shall receive a two-year enhancement for  
28 each prior felony conviction in addition to the sentence  
29 provided in subdivision (c). The existence of any fact that  
30 would subject a person to a penalty enhancement shall be  
31 alleged in the information or indictment and either  
32 admitted by the defendant in open court, or found to be  
33 true by the jury trying the issue of guilt or by the court  
34 where guilt is established by plea of guilty or nolo  
35 contendere or by trial by the court sitting without a jury.  
36 Any person who violates this section shall be subject to  
37 appropriate orders of restitution pursuant to Section  
38 13967 of the Government Code.

39 (f) Any person who violates paragraph (3) of  
40 subdivision (a) and who has two prior felony convictions

1 for a violation of paragraph (3) of subdivision (a) shall  
2 receive a five-year enhancement in addition to the  
3 sentence provided in subdivision (c). The existence of  
4 any fact that would subject a person to a penalty  
5 enhancement shall be alleged in the information or  
6 indictment and either admitted by the defendant in open  
7 court, or found to be true by the jury trying the issue of  
8 guilt or by the court where guilt is established by plea of  
9 guilty or nolo contendere or by trial by the court sitting  
10 without a jury.

11 (g) Except as otherwise provided in Section 12022.7,  
12 any person who violates paragraph (3) of subdivision (a)  
13 shall receive a two-year enhancement for each person  
14 other than an accomplice who suffers serious bodily  
15 injury resulting from the vehicular collision or accident in  
16 a violation of paragraph (3) of subdivision (a).

17 (h) This section shall not be construed to preclude the  
18 applicability of any other provision of criminal law or  
19 equitable remedy that applies or may apply to any act  
20 committed or alleged to have been committed by a  
21 person.

22 (i) Any fine imposed pursuant to this section shall be  
23 doubled if the offense was committed in an auto  
24 insurance fraud crisis area designated by the Insurance  
25 Commissioner pursuant to Article 4.6 (commencing with  
26 Section 1874.90) of Chapter 12 of Part 2 of Division 1 of  
27 the Insurance Code.

28 SEC. 24. Section 4000.5 is added to the Vehicle Code,  
29 to read:

30 4000.5. In conjunction with its mailing of the annual  
31 vehicle registration renewal notice, the department shall  
32 send a list of the top 10 vehicles stolen in this state and  
33 information advising vehicle owners how to deter vehicle  
34 theft.

35 ~~SEC. 25. Section 10903 is added to the Vehicle Code,~~  
36 ~~to read:~~

37 ~~10903. The commissioner shall chair a task force~~  
38 ~~formed jointly by the Department of Insurance, the~~  
39 ~~Department of Motor Vehicles, the Department of the~~  
40 ~~California Highway Patrol, the Medical Board of~~

~~California, the State Board of Chiropractic Examiners, the State Bar of California, the Bureau of Automotive Repair, and the Department of Corrections to identify opportunities to coordinate resources in an effort to further reduce the incidence of automobile insurance fraud and automobile theft. The task force shall meet monthly, and report its progress and findings to the Legislature annually.~~

~~SEC. 26.~~

*SEC. 25.* Section 10904 is added to the Vehicle Code, to read:

10904. The commissioner may develop a public education campaign to deter participation in auto insurance fraud and to encourage reporting of fraudulent claims.

~~SEC. 27.~~

*SEC. 26.* Section 13201.1 is added to the Vehicle Code, to read:

13201.1. A court shall suspend the privilege of any person to operate a motor vehicle for one year upon conviction of the crime of auto insurance fraud, including, but not limited to, a violation of paragraph (3) or (4) of subdivision (a) of Section 550 of the Penal Code.

~~SEC. 28.~~

*SEC. 27.* The sum of two hundred thousand dollars (\$200,000) is hereby appropriated from the General Fund to the Department of Consumer Affairs for allocation to the Bureau of Automotive Repair for the purposes of Article 10 (commencing with Section 9889.25) of Chapter 20.3 of Division 3 of the Business and Professions Code.

~~SEC. 29.~~

*SEC. 28.* Sections 4 and 5 shall not become operative until approved by the voters. The Secretary of State is hereby directed to place those provisions on the ballot of the next statewide election for approval by the voters in accordance with applicable provisions of law.

~~SEC. 30.~~

*SEC. 29.* No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred

1 by a local agency or school district will be incurred  
2 because this act creates a new crime or infraction,  
3 eliminates a crime or infraction, or changes the penalty  
4 for a crime or infraction, within the meaning of Section  
5 17556 of the Government Code, or changes the definition  
6 of a crime within the meaning of Section 6 of Article  
7 XIII B of the California Constitution.

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